

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

Item No. 13

Doc. No. 2

**TENTATIVE ORDER NO. R9-2004-0113
ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
FOR
MANDATORY MINIMUM PENALTIES
AGAINST
SOUTHLAND CORPORATION
7-ELEVEN STORE NO. 20342
VIOLATION
OF
ORDER NO. 96-41, NPDES NO. CAG919002
GENERAL WASTE DISCHARGE REQUIREMENTS FOR GROUNDWATER
EXTRACTION AND SIMILAR WASTE DISCHARGES FROM CONSTRUCTION AND
REMEDATION PROJECTS TO SURFACE WATERS WITHIN
THE SAN DIEGO REGION, EXCEPT FOR SAN DIEGO BAY**

The California Regional Water Quality Control Board, San Diego Region (hereafter Regional Board), having held a public hearing on May 12, 2004, to hear evidence and comments on the allegations contained in Complaint No. R9-2004-0059, dated February 26, 2004, and on the recommendation for administrative assessment of Civil Liability pursuant to California Water Code section 13385 in the amount of \$3,000, finds as follows:

1. Southland Corporation is the owner of 7-Eleven Store No. 20342 located at 487 Vandegrift Boulevard, Oceanside, California. On February 18, 1997, the Regional Board enrolled Southland Corporation under Order No. 96-41 to discharge remediated groundwater to the San Luis Rey River via the Storm Water Conveyance System (WDID No. 9 000000795).
2. On July 9, 2001 Southland Corporation violated Order No. 96-41, *NPDES No. CAG919002, General Waste Discharge Requirements For Groundwater Extraction And Similar Waste Discharges From Construction And Remediation Projects To Surface Waters Within The San Diego Region, Except For San Diego Bay*. This violation is due to an exceedance of the Total Nitrogen Discharge Specification as reported in the July 2001 Monthly Monitoring Report received by the Regional Board on August 30, 2001. The Discharge Specifications' section of Order No. 96-41 states that the Total Nitrogen Instantaneous Maximum is 2 mg/L. On July 9, 2001, Southland Corporation reported a Total Nitrogen Instantaneous Maximum result of 3.9 mg/L, 95% greater than the Discharge Specification. Water Code section 13385 requires imposition of a "mandatory minimum penalty" for this violation.
3. Water Code Section 13385(h)(2) states that a "serious violation" means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more, or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more. Total Nitrogen is a Group I pollutant.

4. Consideration of the factors prescribed in California Water Code Section 13385(e) based upon information available to the Regional Board supports assessment of civil liability pursuant to Water Code section 13385(i) in the amount of \$3,000. Furthermore, Water Code Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation. Under Water Code section 13385(h) the amount of the mandatory minimum penalty that must be assessed is \$3,000 for the serious violation.
5. The Regional Board incurred costs totaling \$3,341, to prosecute this enforcement action; the costs include investigation, preparation of enforcement documents, and communication with the Discharger.
6. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that pursuant to section 13385 of the California Water Code, civil liability is imposed on Southland Corporation in the amount of three thousand dollars (\$3,000).

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on May 12, 2004.

TENTATIVE

JOHN H. ROBERTUS
Executive Officer